

Senate Bill No. 611

Passed the Senate August 29, 2006

Secretary of the Senate

Passed the Assembly August 24, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Article 6.5 (commencing with Section 110806) to Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, relating to food.

LEGISLATIVE COUNSEL'S DIGEST

SB 611, Speier. Meat and poultry recalls.

The existing Sherman Food, Drug, and Cosmetic Law establishes requirements for the identification and branding of food, and provides for the administration of those requirements by the Food and Drug Branch of the State Department of Health Services, and, upon request of local agencies, for the administration of certain requirements by local health officers. Violation of this law is a crime.

This bill would require a meat or poultry supplier, distributor, broker, or processor that sells a meat- or poultry-related product in California that meets the criteria for a Class I or Class II recall according to the United States Department of Agriculture (USDA) guidelines to immediately notify the State Department of Health Services and to provide the department with a list of all customers, as specified, that have received or will receive any product subject to recall that the supplier, distributor, broker, or processor has handled or anticipates handling.

The bill would authorize the department to notify appropriate local health officers and environmental health directors that a supplier, distributor, broker, processor, or retailer in the local jurisdiction has handled or received, or anticipates handling or receiving, a meat- or poultry-related product that is subject to a voluntary recall requested or issued by the USDA.

This bill would provide that if the department makes that notification, the department, local health officers, and environmental health directors may notify the public regarding recalled meat- and poultry-related products. The bill would require the exclusion from that requirement of the name or identifying features of the retailer if the retailer is a restaurant and it is determined that the contaminated product has not been

served to the public and has been permanently removed from the restaurant's food supply.

By changing the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Food recalls are voluntary and federal agencies responsible for food safety have no authority to compel companies to carry out recalls—with the exception for the Food and Drug Administration's (FDA) authority to require a recall for infant formula.

(b) In January 2004, the President of the United States identified the nation's food system as vulnerable to intentional acts of terrorism (Homeland Security Presidential Directive/HSPD-9 Defense of United States Agriculture and Food (January 30, 2004).

(c) According to the United States Government Accountability Office's (GAO) analysis of recalls in its October 2004 report on "Food Safety: USDA and FDA Need to Better Ensure Prompt and Complete Recalls of Potentially Unsafe Food," only 38 percent and 36 percent of recalled food was ultimately recovered in recalls overseen by USDA and FDA, respectively.

(d) According to the same GAO report, "the USDA and FDA do not know how promptly and completely the recalling companies and their distributors and other companies are carrying out recalls, and neither agency is using its data systems to effectively track and manage its recall programs."

(e) Continued weaknesses in our current voluntary system for monitoring food recalls heighten the risk that unsafe food will remain in the food supply and ultimately be consumed.

(f) It is the intent of the Legislature to improve food recall and public notification procedures in the event of a USDA meat or poultry recall and protect California consumers from potential contamination in the event of a serious food outbreak.

SEC. 2. Article 6.5 (commencing with Section 110806) is added to Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, to read:

Article 6.5. Recalled Food

110806. (a) A meat or poultry supplier, distributor, broker, or processor that sells a meat- or poultry-related product in California that meets the criteria for a Class I or Class II recall according to the United States Department of Agriculture guidelines shall immediately notify the State Department of Health Services and shall provide the department with a list of all customers, including a firm name, address, contact person's name, telephone number, fax, and e-mail address, that have received or will receive any product subject to recall that the supplier, distributor, broker, or processor has handled or anticipates handling. The list shall include all pertinent identifying codes, including establishment numbers, package codes, product codes, pack dates, and lot numbers, if any, received or to be received, and any other relevant information. The information shall be electronically submitted to the department in a spreadsheet format specified by the department, and shall include, but not be limited to, a complete product distribution list of the recalled product, for each customer, including product ship date, amount of product shipped and amount of any product returned. The supplier, distributor, broker, or processor shall immediately notify each of its customers that received or may receive those products of the recall in a standardized format. The supplier, distributor, broker, or processor shall document this notification process, including who was notified, the date and time of the notification, and by what method they were notified. This information shall be maintained by the supplier, distributor, broker, or processor and shall be provided to the department upon request.

(b) The department may, after receiving the information required by subdivision (a), notify appropriate local health

officers and environmental health directors, as soon as practicable, that a business in the local jurisdiction has handled or received, or anticipates handling or receiving, a recalled meat- or poultry-related product. The department shall, if it makes the notification authorized by this subdivision, provide appropriate local health officers and environmental health directors with each supplier's, distributor's, broker's, processor's, or retailer's name, address, contact information, affected product identifying codes, including establishment numbers, package codes, product codes, pack dates, and lot numbers, if any, and all other supply chain information available.

(c) (1) If the department makes the notification authorized by subdivision (b), the department, local health officers, and environmental health directors may notify the public in a manner local health officers, in consultation with the department and environmental health directors, deem appropriate regarding recalled meat- and poultry-related products based on their determination that the retailer is present within the local jurisdiction and has received or made the product available to the public.

(2) If the retailer is a restaurant, and a determination has been made by a local health officer or environmental health officer that the contaminated product has not been served, sold, or otherwise offered to the public for consumption, and the contaminated product has been permanently removed from the restaurant's food supply, then the public notification shall exclude the name or any other identifying feature of the restaurant.

110807. This article shall become operative on July 1, 2007.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2006

Governor